THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION NO.10752 OF 2006

Date: 30-05-2006

Between:

Startek Electricals Pvt. Ltd …Petitioner

And

State of Andhra Pradesh rep. by the

Commissioner of Commercial Taxes and others …Respondents

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION NO.10752 OF 2006

O R D E R *(Per the Hon'ble Sri Justice L.Narasimha Reddy):*

The petitioner was assessed to commercial tax for the financial year 2000-2001 and ultimately the fourth respondent passed an order making a refund of Rs.9,000/- as tax paid, in excess. Subsequently, the third respondent passed an order of revision assessment and held that the petitioner is liable to pay Rs.2,34,365/-. Aggrieved thereby, the petitioner preferred an appeal before the Sales Tax Appellate Tribunal. It also filed an application for stay before the second respondent. The stay application was rejected by the second respondent on 28-02-2006. Hence the writ petition.

Heard the learned counsel for the petitioner and the learned Special Government Pleader for Commercial Taxes.

In the original assessment, it was held that the petitioner had not only paid the entire tax, but also is entitled to refund of certain amount. However, the third respondent revised the assessment and took a view that the petitioner is liable to pay a sum of Rs.2,34,365/-. The petitioner availed the remedy of appeal. If it is required to pay the entire amount, assessed by the third respondent, even while the appeal is pending, the appeal would become nugatory.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing that the order of revision assessment, passed by the third respondent, shall remain stayed, pending appeal before the Sales Tax Appellate Tribunal, on condition that the petitioner deposits one-third of the disputed amount, within a period of four weeks from today. There shall be no order as to costs.

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(L. NARASIMHA REDDY,J)

Dated 30th May, 2006

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(D.APPA RAO,J)

vrn/kvni